

October 13, 2010

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TOWN OF NEW WINDSOR

PLANNING BOARD

OCTOBER 13, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HOWARD BROWN
DANIEL GALLAGHER
HENRY SCHEIBLE

ALTERNATE: HARRY FERGUSON

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

NICOLE JULIAN
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN

October 13, 2010

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REGULAR_MEETING

MR. ARGENIO: I'd like to call to order the October 13, 2010 meeting of the Town of New Windsor Planning Board.

We're going to record this meeting while we await the stenographer who is a couple of moments late.

REGULAR_ITEMS:

NOWICKI_SUBDIVISION_(07-14)

MR. ARGENIO: Sir, your name for the benefit of the stenographer?

MR. MARSHALL: Larry Marshall of Mecurio, Norton & Tarolli.

MR. ARGENIO: Okay, tell us what you have here.

MR. MARSHALL: We have a 9 lot subdivision on Station Road. What we have proposed is we will access each driveway (inaudible).

MR. ARGENIO: Point to lot 9 please?

MR. MARSHALL: Lot 9 is right here.

MR. ARGENIO: Got it.

MR. MARSHALL: (Inaudible) We have resolved all of the storm water issues. (Inaudible).

MR. ARGENIO: Okay, I see that in Mark's notes. The SWPPP is okay, Mark?

MR. EDSALL: Yes.

MR. ARGENIO: Okay.

MR. VIBROCK: All the lots will be served by individual wells and septic. It will require Orange County Health Department approval. (Inaudible).

MR. ARGENIO: One of Mark's comments, I want to read this to you, New York State DEC, New York State Parks, Historic Recreation identified this site as a sensitive area. Parks and Historic Preservation requested

information by letter dated 8/22/08. Do you know the genesis of them declaring this a sensitive area?

MR. MARSHALL: I was not aware of that. Do you have a copy of that letter?

MR. ARGENIO: He wrote a letter on 8/22/08, I'm sure he didn't make that up.

MR. MARSHALL: No, I'm not saying that, I'm just saying I wasn't aware of that.

MR. ARGENIO: An Article 24 Freshwater Wetlands Permit will be required from New York State DEC. I live up the road and I happen to know the wetlands are MB-29, I think Mark has it here somewhere.

MR. EDSALL: Yes.

MR. ARGENIO: Is that right, Bob? Am I right or am I wrong? And MB-59 as well. So you're going to need a permit to cross I would assume with the driveway. Is that correct?

MR. MARSHALL: (inaudible)

MR. EDSALL: Nicole, make sure we have a copy of that August 22 letter sent over so they have a copy?

MS. JULIAN: Okay.

MR. ARGENIO: Forward that letter to these folks.

MS. JULIAN: Yes.

MR. ARGENIO: I have a note from highway here, he's concerned with the driveways entering Station Road and the sight distance for each. It looks to me that you may have an issue with sight distance on lot 5 and lot 6, you're gonna have to take a look at those sight

distances and let us know what those distances are and demonstrate to the highway people that the sight distance is appropriate.

MR. MARSHALL: The driveway sight distances that are proposed and the driveway locations are provided on the table.

MR. ARGENIO: Okay.

MR. MARSHALL: Several of the driveways including lot 5, well, actually not lot 5 but several of the driveways (inaudible).

MR. ARGENIO: Mark, we should make sure that Anthony gets a look at that, at that table so he can make an appropriate assessment.

MR. EDSALL: On comment 5 I deal with that issue he had raised, (inaudible) but I agree with you that lot 5 is part of that section where (inaudible.) Historically, what Anthony likes to have done so that he can get a hands on review is he'll mark the driveway locations in addition to just having the numbers shown on the plan. I'm assuming (inaudible). Maybe (inaudible). He may not want all of them flagged.

MR. ARGENIO: I wouldn't imagine it because lot 4, lot 3, lot 2 seem to be substantial.

MR. EDSALL: So that's preferably the way he gets a better hands on understanding of what's going in.

MR. ARGENIO: I'm going to terminate this recording inasmuch as Franny's now ready and give this tape to her so she can transcribe it and include it as part of the permanent minutes.

(Discussion was held off the record)

MR. ARGENIO: They would have to, this went to county, the comment that we got back was local determination. Mark, this is going to be reviewed by the Department of Health, is that right so there's no need for us to get up in arms about the septic disposal in this area?

MR. EDSALL: What they need to have and my last comment deals with it is that they're at that preliminary public hearing position you need to get passed that preliminary public hearing, they need to have preliminary approval to move on to the Health Department but you're absolutely correct, Department of Health does the review of the septic and wells.

MR. ARGENIO: Sir, I'm not going to read Mark's technical comments, for instance, on sheet 1 and 2 the lot line should be more clearly be indicated, I mean, I expect you to review them if you would and make the appropriate corrections but I will ask the members do you guys have any issue here? I mean, everybody looking at well and septic and driveway? Henry Scheible?

MR. SCHEIBLE: One thing bring me up to date here, what's the lot size permitted in this neighborhood?

MS. GALLAGHER: It's 80,000 square feet.

MR. SCHEIBLE: That's equivalent to?

MS. GALLAGHER: One point 86, just shy of two.

MR. SCHEIBLE: They're just squeezing in the minimum, if I'm correct.

MR. MARSHALL: Lot 7 and lot 8 are very close.

MR. ARGENIO: I live out that way and farms aside, these lot sizes are certainly congruent with the

neighborhood.

MR. SCHEIBLE: Just wanted to make sure they're
permissible.

MR. SCHLESINGER: The lot number 1 obviously is an
L-shaped lot which also contains the water retention
area, is that the right terminology? Does that mean
the person who owns that lot is responsible for any
sort of maintenance or anything having to do with that,
Mark?

MR. EDSALL: Well, inasmuch as it's a residential
subdivision, the town's code requires that these type
applications have a drainage district formed and the
actual storm water quality basin and the area
immediately surrounding it would be maintained by the
drainage district, those costs are passed back to the
benefited parties which are the lots in the district
which would be lots left in the subdivision. One of
the things that this is being referred over to the
infrastructure committee for a review of the limits of
the bounds of the drainage district parcels so that's a
pending item. But as well the Town Board has to create
the drainage district so the individual lot as a single
homeowner would not bear that responsibility, but that
he would share in it with all 9 lots.

MR. CORDISCO: That's been an issue that gets fleshed
out between preliminary and final approval or as a
condition of final approval.

MR. SCHLESINGER: That area is included or excluded as
the total acreage of lot 1?

MR. EDSALL: That has to be excluded from the area
because it's an area as the code calls it precluded
from development so it's almost like an easement in
this case it's actually a dedication to the town
drainage district.

MR. SCHLESINGER: Has to be some sort of easement created.

MR. EDSALL: One for access and the actual lot or parcel we should call it the parcel with the basin on it is actually dedicated to the drainage district.

MR. ARGENIO: What's that symbol right there?

MR. MARSHALL: It's an A.

MR. ARGENIO: It's an upside down D on my plan so that's an A and that's the drainage basin lot?

MR. MARSHALL: Yes, that's one of them. The other one is in the front of the lot.

MR. ARGENIO: The other thing that they did I would point out and refresh everybody's memory I think Neil has commented on the runoff in that area substantial adjacent to Station Road and it appears that with the size of the culverts I think they have addressed it, they have double 30 inch culverts which I don't think exist anywhere in that corridor currently and I think that's probably the right approach is what they have.

MR. SCHEIBLE: That's a question of the runoff I'm looking for, you say the culverts are the right size but where is the runoff going?

MR. ARGENIO: It typically runs along the edge of the road in this area, there's a swale 10 or 15 feet off of the road.

MR. SCHEIBLE: But eventually it has to go in some direction, it's not going to sit in the culverts.

MR. EDSALL: It goes to the wetlands, that whole area is connected to wetlands.

MR. SCHEIBLE: Just asking the question where the final resting area is here.

MR. EDSALL: A lot of those driveways actually end up crossing designated wetlands.

MR. ARGENIO: Henry, most of that goes into the wetlands and those wetlands end up dumping into the Moodna Creek. On the other end of Station Road there's another little stream, I don't know the name of it but it runs dry in the summer but it all ends up over there. Mark or Dominic, you have a note here preliminary public hearing, what does that mean? You have to have two public hearings?

MR. EDSALL: Well, the law does have and it's not this change but the prior revisions to the subdivision regulations actually created a second public hearing which is optional, final public hearing this board has the right to have two public hearings on subdivisions if you so desire.

MR. ARGENIO: We need to have on this at least one.

MR. EDSALL: That's why I call them preliminary public hearings, if I'm alert enough and don't mess up my comments before the end you'll see a comment that will say you should consider either waiving or not waiving the final public hearing.

MR. CORDISCO: With that said, I will provide any engineering advise to the board as you may need.

MR. EDSALL: It was my comments so I, and since counsel wasn't working for New Windsor when I assisted in writing that law, I figured I'd help him out.

MR. CORDISCO: I appreciate the help so I won't give you any part of my fee.

MR. ARGENIO: Anything, lead agency?

MR. CORDISCO: Yes.

MR. ARGENIO: I'll accept a motion to this effect.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made that the Town of New Windsor Planning Board declare itself lead agency for the New Windsor subdivision. Roll call.

MR. SCHLESINGER: Question, just a question, you previously authorized lead agency coordination letter?

MR. ARGENIO: That's the letter, now we're declaring lead agency.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: It seems to me that just the history of that is that this was quite a large subdivision a while back and they have scaled it down quite a bit for whatever reason and it looks like it makes sense and it also seems to me that the plans are probably of a level of fitness where we can probably feel comfortable with scheduling that public hearing I would think. Mark, unless you--

MR. EDSALL: If acceptable to counsel, I will comment back to back when it was 28 lots it was 28 lots

originally and it had a connecting road it was reduced down.

MR. ARGENIO: Back to Rackowiecki?

MR. EDSALL: The Nowicki application.

MR. ARGENIO: The connecting road went back to the Rackowiecki subdivision.

MR. EDSALL: Yes, so we're down to nine lots, I did confirm for the record that the referral that went to County Planning and back for local determination was in fact the nine lot subdivision.

MR. ARGENIO: Yes, I got that note from you.

MR. EDSALL: So we don't need to refer it as a changed plan so from a technical standpoint, it's good for a public hearing.

MR. ARGENIO: If anybody sees fit, I'll accept a motion we schedule that.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that we schedule a public hearing. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: What else do you want from us tonight?

MR. MARSHALL: I think that's plenty.

MR. ARGENIO: Anybody else have any comments? This is pretty straightforward. Henry?

MR. SCHEIBLE: Not at the moment.

MR. ARGENIO: We'll save the sidewalks for another night.

MR. SCHEIBLE: Yes.

MR. ARGENIO: Okay, good.

MR. MARSHALL: Do you have a date for the public hearing?

MR. ARGENIO: You're going to contact her tomorrow and you guys will work on that, she'll tell you what you need to do and you'll get it set up. Thank you very much.

CONTINENTAL_ORGANICS_SITE_PLAN_(10-16)

MR. ARGENIO: Next is Continental Organic site plan on Mt. Airy Road. Application proposes a change from an agricultural farm use to agricultural hydroponics fish farm operation. Plan was previously reviewed at the 12 May, 2010, 9 June, 2010 and 15 September, 2010 planning board meetings. I would add that there have been a couple of substantial changes in the interim to the project and what we're looking at now is not precisely what we were looking at originally. So that said, your name for the benefit of the stenographer?

MR. FINNEGAN: Michael Finnegan, Continental Organics.

MR. ARGENIO: What do you have, Mr. Finnegan?

MR. FINNEGAN: First copy of a Bargain and Sale we have acquired for the Belle property.

MR. ARGENIO: You closed?

MR. FINNEGAN: I did.

MR. ARGENIO: Congratulations. One of the things on my list was that you don't have a proxy on file.

MR. FINNEGAN: Well, I suspected that was at the top of your list, Mr. Chairman.

MR. ARGENIO: I assume it's in order, get it to Dominic to look at, I'm certain he wouldn't be giving it to us if he didn't buy the property. Go ahead.

MR. FINNEGAN: So we bring here tonight a site plan that we think achieves all of the objectives raised by the planning board insofar as it has jurisdiction over public health and safety issues with regard to a site plan for an agricultural use in an agricultural district which this is. Those specific concerns raised

were about the Silver Stream pond and we believe that the SWPPP submitted addresses those concerns completely. The site plan itself shows in compliance with DEC water quality standards in excess of 50% of their standards. So just to review, we did talk about this plan the last time we were here and just to review exactly what we have done on the Belle site this plan would result in the removal of 30,145 feet of pavement area. It would also result in a net decrease of impervious surface area of almost 6,000 square feet. Secondly, the impervious surface area that will be replaced on the site will be less of a concern from the perspective of Silver Stream. Pavement asphalt is obviously something that's less of, it creates more of a pollution concern than glass and plastic so that's a significant improvement over what's there today. There's no catchment facilities on the existing site, we're going to have a natural DEC standard rain garden on the site as well as provide for water quality treatment of not just that site but the farm behind it. As requested by the planning board the last time we were here, the sight lines have been approved for ingress egress to the property, there's a safer entrance and exit now proposed on the site plan as suggested by your engineer. We're going to have a one way entrance and a one way exit delineated by signage on the site. We're going to be restricting access to the site from those two locations. The visual of the Belle property will be significantly improved by berms, the garden itself, plantings.

MR. ARGENIO: I thought he was going to say burning the building down.

MR. FINNEGAN: And we'll be improving the facade itself Mr. Chairman and as had been discussed previously will be an adaptive reuse of the existing 13,000 square foot building as part of an office, laboratory, in-process out-process facility on the site and that's the plan.

MR. ARGENIO: You know what you don't have on here which I specifically asked for last time is the finished floor elevations for the temporary greenhouses specifically, if I remember correctly, I asked the question about the contours and the grading going through there and how does that whole thing fit together. And I thought response was that you were going to build some structural, possibly some structural walls that will hold up the earth outside the greenhouse. I thought that's what you said, do you remember, Travis? I thought I remember talking about the finished floor elevation.

MR. EWALD: The grading will be around the greenhouses basically creates a two foot drop from the rear of the greenhouse to the front of it just to convey storm water around it and I think that the--

MR. ARGENIO: I'm talking about all the buildings.

MR. EWALD: Oh, on the--

MR. ARGENIO: There's a 20 foot drop on just one building, what are you talking about?

MR. EWALD: The existing grade though.

MR. ARGENIO: This building here there's a 20 foot drop from one end to the other, I mean, unless I'm not counting right.

MR. EWALD: Our proposed grading only drops two feet across the building itself, if you look on sheet 2 we're proposing to cut the grade down behind it significantly.

MR. ARGENIO: I see that.

MR. EWALD: We can definitely put on the floor elevations.

MR. ARGENIO: I think that would be helpful and again, let me reiterate, Mr. Finnegan, please be patient with me, 100 percent of your water for your facility is reused?

MR. FINNEGAN: We lose one percent through evaporation.

MR. ARGENIO: That's the only water that you, that's the only discharge you have is the evaporative discharge?

MR. FINNEGAN: There's another three or four percent that goes into the compost facility but that too it isn't reused in a sense because we're creating liquid fertilizer.

MR. ARGENIO: Okay, where is the compost facility shown here?

MR. FINNEGAN: Here.

MR. ARGENIO: Down the bottom, got it, okay. I want to read this from Mark's comments couple things, one he's reviewed, his guy has reviewed the SWPPP and it is noted that the design continues to exceed the state requirements, that's a good thing, but you understand that at the end of the day, the reality is that this location is directly across from Silver Stream Brown's Pond, not supposed to say Brown's Pond, we'll say Silver Stream which is the drinking water supplied for the City of Newburgh which has been of concern to the city for many years, any construction that we authorize around that drinking water facility and we have had some issues over the years of some other developers maybe not being as prudent as I'm sure you folks will be and torpidity.

MR. FINNEGAN: Our proposal--

MR. ARGENIO: Yes, I'm keyed into that that you're going to, you're going to reduce the impact.

MR. FINNEGAN: Yes.

MR. ARGENIO: That's already there. Now in addition to complying with the laws and I certainly understand that and Mark seems to agree with that.

MR. SCHEIBLE: I just have one question if I can. What's the capacity of the storm water pond we have here? I'm looking, I'm just, quick calculations here we're looking at over 500, 1,000 square foot of roofing here and if you get these one, two three inches of rain falls, you know, which can come on to this area pretty fast, are we going to be able to hold that in this? That's why I was asking the capacity of the storm water pond which is supposed to be able to handle, you have over 500, 1,000 square foot of roofing in this area and all that water just correct me if I'm wrong. All that water is supposed to flow into the storm water pond, are we able to contain all that without having overflows out into the lake across the street?

MR. EWALD: The pond has been designed to handle eight inches of rain in 24 hours and for all the storm events the release rates coming out of the pond are reduced from what the existing conditions are with no impervious surfaces on the property whatsoever so yes, it should handle up to and exceeding a 100 year storm event.

MR. ARGENIO: You know, I have one question, Mark, let me ask a stupid question. How do we know and this is a kind of an extension of what Henry just said, I'm trying to be prudent here and again, Mr. Finnegan, please be patient because this, Brown's Pond this is a very important issue to us. How do we know, Mark, that the water that runs off of those roofs goes in that storm water pond now the grading of the site is such

that the water that runs off the roofs and lands in the courtyard area looks like it will go there but what about the water that runs off the other side of the roof, how, where does that go?

MR. EDSALL: I'm going to pass it to the applicant only because I know John Szarowski from our office reviewed the SWPPP so I believe Travis is probably more prepared to address the specifics since I didn't do that review.

MR. EWALD: When we designed the site, Mr. Chairman, we neglected to take into consideration roof leaders, we were just considering that there wouldn't be any, I'm not sure whether there will or not, so we collected all the runoff that comes from the gravel drive and the roofs in a swale that goes along here and it, there's a depression with piping that goes out to the storm water pond and then the same thing in the lower easterly corner of the site it collects the compost facility and the rest of the gravel drive.

MR. ARGENIO: I see the swale, yes.

MR. EWALD: Same thing on this side, this is the swale running down the outside to a pipe across and pipe down here that collects the last part of the road and across and then above.

MR. ARGENIO: What's going on right here? There's no elevations or anything indicated there.

MR. EWALD: I can remedy this. There's a swale, small valley, there's a saddle or high point up here that's a break of all the water in this area so this is allowing the water that would come through this valley to be collected, this is actually clean water over here all this runoff which is clean water is caught in a swale and going around so that we don't have clean water going over surfaces that could potentially contaminate it. So to answer your question whether there's roof

leaders we have swales that capture everything on the outside of the site and bring it in.

MR. ARGENIO: I still don't understand what this thing does.

MR. EWALD: Because there's a depression with a pipe, the outlet's right here so it just allows--

MR. ARGENIO: So it grabs the water and brings it into that courtyard area?

MR. EWALD: Correct, and goes down to the pond.

MR. ARGENIO: Understood. The second question that I have and again if you guys have anything just chime in I want to read just a bit here Mr. Finnegan from Mark's comments, number 4 from, from a zoning standpoint, the following issues must be further discussed, bullet number one, indicated developmental coverage on lot 70 exceeds permitted value. Does this include, Mark, stay with me, does this include temporary agricultural structures or is the applicant indicating the need for a variance? Bullet two lot area for this use exceeds the required five acres when the lots are considered in total, however, it should be acknowledged that lot 69 on its own does not have adequate lot area for the use. Side yard and rear yard values, bulk table indicates noncompliance for lot 69, I mean your bulk table it is more accurate in my opinion to note that that lot has a substantial pre-existing, non-conforming condition. The proposed building is not increasing the non-conformity. Would seem to me that the third bullet is a statement that's a clean-up issue, Travis, that you guys should take heed to because typically, something that's pre-existing, non-conforming as long as you're not increasing the non-conformity typically unless there's something else going on that creates another hardship for a neighbor it's something that we tend to look passed. The lot 70 has temporary

agricultural buildings with no occupancy as such no parking has been provided, lot 69 has two buildings, basis for the area indicated is unknown. So share with me a little bit here I just read all of them, okay, let's just go back to the beginning, indicated development coverage on lot 70 exceeds permitted value. Does this include temporary agricultural structures? Is the applicant indicating the need for a variance?

MR. FINNEGAN: Maybe we can take the easier one first.

MR. ARGENIO: Wherever you want to first.

MR. FINNEGAN: Second bullet we're actually reducing the impervious surface area.

MR. ARGENIO: Why? I don't see where it talks about that lot area for this use exceeds the required five acres when the lots are considered in total. It's area that he's talking about, coverage, buildings.

MR. FINNEGAN: Let's take the more contentious issue.

MR. ARGENIO: None of it's contentious for me.

MR. FINNEGAN: It may be for me. As you know, every time we have been here we have had numerous meetings, we have put on the record that this is an agricultural use in an agricultural district and therefore not subject to site plan approval, the County Planning Department has noted it in its memos back and forth to all of us and that's our position here. I recognize that the consultant has indicated that are we indicating the need for a variance, the answer is no, we're not required to get a variance. The law is very specific here, the guidance is very specific, this is an AG use in an AG district. The jurisdiction comes when a question's raised about public health or safety. The scope of the review is limited so that we have addressed that public health and safety issues raised

concerning Silver Stream, we have addressed those to everyone's satisfaction.

MR. ARGENIO: That's not true but go ahead.

MR. FINNEGAN: Well, so far as I know there are no objections.

MR. ARGENIO: It's not true, we have not heard from the City of Newburgh yet, I would expect to hear from them any time but--

MR. FINNEGAN: Is that required under the law?

MR. ARGENIO: It's required here tonight.

MR. FINNEGAN: So we have to wait for the City of Newburgh?

MR. ARGENIO: Yes. You take exception to that?

MR. FINNEGAN: Well, if I'm not required to wait for the City of Newburgh, why should I wait?

MR. ARGENIO: Dominic, can you speak to this please?

MR. CORDISCO: Well, we have been recommended by the County Health Department to confer and at the city's request refer items to them that affect Brown's Pond and their watershed.

MR. ARGENIO: Safety, health and welfare seems I've heard that at some point in time. Go ahead.

MR. CORDISCO: That's correct.

MR. ARGENIO: Continue.

MR. CORDISCO: On that particular point, we have referred the plans to the City of Newburgh and we're

waiting for their response is my understanding.

MR. ARGENIO: Okay, what about the distinction of the review, the necessary review that's required or not of this plan and the scope of that review being specifically and solely relegated to that which involves safety, health and welfare because it's in an AG district? Can you speak to that please?

MR. CORDISCO: We have gone back and forth on that particular issue several times and I really don't want to belabor or occupy too much of the board's time on this particular issue. We have laid it out in the past, let's rehash it for just a moment. The board will recall that I provided the board with information that there's a Commissioner's decision from the DEC that says that an aquaponics facility is a commercial agricultural facility and is not a traditional agricultural use. So it becomes in that particular instance the Commissioner found that it was not exempt from DEC storm water requirements which is good because certainly we were requiring storm water compliance here and they're demonstrating storm water compliance here because Silver Stream is an important resource not only for the City of Newburgh but also for the Town of New Windsor because Brown's Pond functions as a backup water supply for the town as well. But this particular issue that's come up a number of times is really relating back and I'm sure Mr. Finnegan can speak directly on this particular point is the Right to Farm Law which is a law that was passed under the Petaki administration, my plain reading of it is that it prohibits a municipality from unreasonably restricting an ability for a farmer to engage in agricultural activities. And after I had a conversation this afternoon with Mr. Finnegan and after that conversation we went and tried to find some cases on this particular point because this has obviously been an issue of contention between us. And I'd like to read briefly if I may this is from a court case from the 3rd Dept. in

New York State in 2004, and it says that a municipality may under the Agricultural and Markets Law exercise its power and administer comprehensive plans and local laws, ordinances, rules and regulations as long as it does so in a manner that does not unreasonably restrict or regulate farm operations within AG districts. It says in addition, the Agricultural and Markets Law preempts local zoning ordinances that prohibit farming and farm related activities. Of course that's not the scenario that we're dealing with here though because what we're dealing with here is an agricultural use which is a permitted use in the R-1 district but the Agricultural and Markets Law as I read it does not say that they're not subject to zoning, it doesn't say that they don't have to meet bulk requirements and it certainly doesn't say that they don't have to get site plan approval. I think there's a disconnect in my personal opinion between the position that's being presented to you here tonight because after all, they're asking for site plan approval but they're also I think telling you that they don't need it or that they don't need to meet the town's requirements that I can't resolve that disconnect for you.

MR. ARGENIO: So you disagree then that the review is more the, consists of more than just safety, health and welfare?

MR. CORDISCO: Absolutely.

MR. ARGENIO: Okay, I'm not an attorney, Mr. Finnegan, but I'm going to tell you this, if you don't want us to continue the review, I'm good with it, we'll clear the agenda, we'll go on to the next thing and you can have a judge direct Jen to issue a building permit based on your interpretation of the law. I'm okay with that, certainly with all due respect I'm okay with that. But it seems to me the term unreasonably restrict was used, I don't think we have, Mark or Dominic, please, I don't think we have unreasonably restricted anything. I

think we're doing perfectly appropriate and reasonable review that we have done with every other application that comes in front of this board. Now we have a special concern here that we have with any application that's in the drainage basin for Brown's Pond and I think we should hear from the City of Newburgh before we, and that's not good or bad, it just means that we should hear from them before we move.

MR. EDSALL: Mr. Chairman, before you go on, I just want to speak to the zoning issues. The comment 4--

MR. ARGENIO: Yes, I want to wrap this up.

MR. EDSALL: I just want to get something in, I'm not in my comment 4 giving an indication that a trip to the ZBA is needed.

MR. ARGENIO: You're saying it needs to be clarified.

MR. EDSALL: You can't give us a bulk table that says 5 is required we're giving you 3 or X is required we're giving you Y without saying either it's not required because of some other section of the bulk table or clarify to the adequate extent any pre-existing non-conforming conditions because clearly we're not asking you to take something that's way under the bulk requirements and cure the issue with your application. But we need to make sure that five years from now or three months from now if someone opposes any approval this board would grant that the record is clear that the reason why you have less than what's in the bulk table is because you're in fact either making an existing condition better or at least not making it worse, that's all what I want to do is under comment 4 is make the table clear.

MR. FINNEGAN: That's perfectly clear.

MR. EDSALL: I don't believe that a trip to the Zoning

Board is needed but based on the bulk table that's been presented, you would need to so we need to clean that bulk table up.

MR. ARGENIO: I'm going to put it to you, Mr. Finnegan, do you want to continue or call it a night?

MR. FINNEGAN: Well, I'd like--

MR. ARGENIO: Because if you really believe it's not ours, let's not waste everybody's time, there's other people that have things to do with all due respect.

MR. FINNEGAN: First of all, I don't agree that that case applies in this circumstance. There's been a lot of guidance issued by not the Petaki administration but Spitzer and Patterson administration on what the law means. There's a whole package here which I forwarded, this is not a new judicial body, we don't need to debate, your position is that your jurisdiction extends, okay, fine, so clean up the bulk tables, we have to get guidance back from the City of Newburgh before you would act.

MR. ARGENIO: Which I'm sure is coming, I mean they're--

MR. FINNEGAN: Can we get a limitation on the timeframe?

MR. ARGENIO: I will put you on the next meeting. Mark, can you call the city engineer please after tomorrow?

MR. EDSALL: I have spoken with the city engineer tonight to find out whether or not there are issues. He has in fact issued a letter, the timing just didn't work out for tonight's meeting, he had a couple questions. What I'm suggesting to the board is that I have a meeting scheduled in our office with the

applicant's engineer, the city engineer and John Szarowski who's comfortable with the SWPPP exceeding state requirements and make sure all the questions are answered.

MR. ARGENIO: I don't want you to think we're not, we are, I think I speak for you guys. Okay? Go ahead, Mark.

MR. EDSALL: For only the purposes of making sure that the questions that the city have are answered and I'm sure--

MR. ARGENIO: I cannot imagine what it could be but we need to give them the opportunity.

MR. EDSALL: Just as your questions about flow on the site for storm water were answered I'm sure those questions can be answered and I wholeheartedly believe we can have that out of the way by the next meeting.

MR. ARGENIO: Why don't you endeavor to have that discussion, why don't you endeavor to make whatever corrections you think are reasonable and as I said, I can't imagine they'll be unreasonable, it looks like it's fairly well thought out and we'll put you on the next agenda.

MR. EDSALL: One open item, did we hear from County Planning?

MR. ARGENIO: Yeah, local determination. Your ducks are in a row, sir.

MR. EDSALL: We're down to fixing the bulk table, answering the city and one or two minor, I think one plan suggestion on comment 5.

MR. ARGENIO: From a procedural point of view, I don't know if we need to do this, Dominic, this is part of

the same previous application we waived the public hearing, we, I think Henry Kroll was here one evening and he's about the only neighbor there and against your advice I said Henry, what do you think and he spoke in favor of it. Do we need to do that?

MR. CORDISCO: You should decide whether or not you're going to have a public hearing. This is an amended application.

MR. ARGENIO: I will go around the room, does Neil and Howard, about a public hearing, do you understand where we're coming from with this? The last time this was in front of us, we agreed to waive the public hearing, I don't know if you guys were here, Neil, I think it might have been when you were spending some time in Florida, Henry spoke and he said no, he's, the only neighbor is the guy across the street.

MR. SCHLESINGER: I don't think my position would change on it.

MR. BROWN: Same, I don't think a public hearing is necessary.

MR. SCHEIBLE: Well, you just mentioned that we're looking at a whole other site plan here and I still have a few more questions.

MR. ARGENIO: Henry, this does not waive your right, we're still going to talk here, just talking about the public hearing.

MR. SCHEIBLE: I said yes, we should.

MR. GALLAGHER: No, I don't think it's necessary.

MR. ARGENIO: Anybody want to make a motion we waive the public hearing?

MR. SCHLESINGER: Motion to waive.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been waived and seconded that we waive public hearing. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	NO
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I think we should waive the public hearing on this and be consistent with our last time but Henry, you had a couple questions? Please go ahead.

MR. SCHEIBLE: Probably being repetitive over and over I've seen this so many times here, every one of these temporary agricultural buildings otherwise known as greenhouses, I'll go back to the capacity of the storm water drain now each one of these has a reservoir of water in it?

MR. EWALD: Yes.

MR. SCHEIBLE: This is where the fish live?

MR. EWALD: No, fish live in this building here.

MR. SCHEIBLE: Just the one?

MR. EWALD: Yes.

MR. SCHEIBLE: Does that feed all these others?

MR. FINNEGAN: Yes, water circulates.

MR. SCHEIBLE: So in a way, I don't like to use the word we'll say it's possibly polluted water that will feed into polluted water is the right term because from the fish excrements, from the fish now when they feed into all these and what's the normal capacity of water in each one of these? Doesn't have to be exact.

MR. FINNEGAN: Each greenhouse at any particular moment is that the question?

MR. SCHEIBLE: Yes.

MR. FINNEGAN: I'd have to give you that at the next meeting.

MR. SCHEIBLE: I think it's very important, the reason I'm bringing that up is because the last time I asked this question there's no eventual, actually, you're going to have to drain these ponds out eventually they're not going to stay forever the same amount of water and the same water they're going to have to be replenished sometime.

MR. FINNEGAN: Well, you never say never but the point is to recirculate.

MR. SCHEIBLE: What I'm getting at is where does the water go to? We're going to feed it into the storm water drain? I may be repetitive.

MR. ARGENIO: Henry, you're coming up with your own supposition, you're coming up with your own presumption, I mean, I would ask the question of the applicant do you have to drain these things out?

MR. FINNEGAN: No, in fact, we have redundancies built into the system, the first way in which the water is cleansed is naturally.

MR. SCHEIBLE: This is cleaning up my own head here.

MR. FINNEGAN: It's a good question, the plants actually biofilter the water, the root structures in the water as it flows by cleans the water such that it actually can support, it's cleaner than most drinking water, you can drink the water.

MR. ARGENIO: So what we don't have is water that continuously fills up with fish poop.

MR. FINNEGAN: No, as it flows down through, the root structures actually absorb the finer particles and the dissolved particles the bigger clumpier stuff goes into the compost house.

MR. ARGENIO: That's why the compost is at the low lands?

MR. FINNEGAN: Exactly right, and we actually use the contours, part of the answer to your question before about the elevations we actually use the contours so we reduce your electrical needs, it flows.

MR. ARGENIO: Using gravity.

MR. FINNEGAN: Using gravity down. But if you note here it says compost house and pumphouse, inside of the pumphouse we have filters, think of what you'd have in a pool, that's a redundancy built in. So in the event that one of the greenhouses isn't functioning properly you shut it off, the water continues to flow through the rest of the system, it goes into the pumphouse and is cleansed again in a big sand filter type structure before it goes back into the fish houses. The possibility of us, I say you never say never, right, okay, to be honest, you never say never, the system is designed with redundancies so you never have to refill it, other than the one percent it loses through evaporation, 3 percent, 4 percent which you're going to

have flowing into the compost, that's it.

MR. ARGENIO: Henry, it's your ballgame. Any other thoughts?

MR. SCHEIBLE: No, that's about it right now. You know, I'm being devil's advocate, we, the whole board is worried about the reservoir, that's our major concern at this point.

MR. SCHLESINGER: Are you concerned that the, that in the event there's some sort of catastrophe or something?

MR. SCHEIBLE: Yeah.

MR. SCHLESINGER: He's explained the system and listen, he's done a lot of research on it and spent a lot of time and money and this is supposed to flow from here to here filtered used make the compost and pumped back into the, it's a system, it's a closed system. Is it possible that that closed system at any time for any reason can break or it could be a catastrophe and your answer is never say never, yeah, there can be but--

MR. ARGENIO: Could there be a failure at Indian Point? Of course there could be.

MR. SCHLESINGER: So if that's your concern, I see the concern, we don't want to contaminate Brown's Pond or anything like that but I don't know how far you want to go with this.

MR. FINNEGAN: Water redundancy in the question that within each one of the greenhouses, there's bays so let's assume that one of the bays has some sort of a rupture, all you do is just like in a submarine, you close it off so you've got one bay, not 12 or 24 bays, you've got one bay to deal with, that's it. And it protects the plant life, protects the investment we

have in the fish which is enormous, this is--

MR. ARGENIO: You guys have incentive to see to it.

MR. FINNEGAN: It's our livelihood. There's a fish farm up in Cornell which was the leader years ago, 20, 25 years ago in developing this type of system, they had a rupture, they didn't have the redundancies, our consultant insisted we have these things.

MR. ARGENIO: You're learning from their mistakes.

MR. FINNEGAN: They lost all their fish because of one rupture, it was an electrical system that was built in series.

MR. ARGENIO: As opposed to parallel.

MR. SCHLESINGER: I want to say just to give you a little bit more substance, I just read today that there's I guess another facility similar to what you're doing at Hudson, New York.

MR. FINNEGAN: It's only a fish farm, there's no vegetable component so instead of having a biofiltration system, they have massive sand filters.

MR. SCHLESINGER: Still dealing with a lot of water.

MR. FINNEGAN: All water.

MR. ARGENIO: They're the ones with all the fish poop.

MR. FINNEGAN: Yes, sir, and they don't have a compost.

MR. ARGENIO: So you're going to get with Mark, you're going to get with the city engineer, you guys have a powwow, you're going to make the changes you need to make, get this thing cleaned up, I think I know the answer to, you answered my question about the drainage

and how it's going to flow and the retention issues, I hope you answered Henry's questions and Howard's to my right taking it all in and that's good.

MR. EDSALL: Mr. Chairman, the items I discussed I'm assuming that you still want to have plus or minus elevations shown for the structures?

MR. ARGENIO: Finished floor, yes.

MR. EDSALL: So again plus or minus but something indicated.

MR. ARGENIO: Thank you for coming in, get it tightened up, she'll put you on the agenda, no issues, none.

COVINGTON_ESTATES_SUBDIVISION_(10-24)

MR. ARGENIO: Next on tonight's agenda is Covington Estates.

Mr. Ross Winglovitz appeared before the board for this proposal.

MR. ARGENIO: The application proposes the creation of 125 lots with 124 multi-family units which were the subject of a prior site plan approval. The application was reviewed on a concept basis only. The 125th lot will be for the common lands. Briefly for the benefit of the members and I'm going to let Ross Winglovitz is somewhere, it's my understanding that this is very similar to the application that we just processed at The Grove. That said, Mr. Winglovitz, tell us about what you have here and make sure you don't have anything up your sleeve.

MR. WINGLOVITZ: I'm here for Covington Route 300 LLC. This is an application that's been in front of the board, not this particular application but this project since about 2002. This one only has a site plan approval, initial final site plan approval for 124 units, you see here on the plan what the applicant is proposing to do is to break those units into, put them each on a fee simple lot similar to what they have done at The Grove. I understand from our meeting with Mark that this is going to require a PUD referral to the Town Board and once they recommend it back to you guys we can act on the application. I'm here to answer any questions you might have.

MR. ARGENIO: Henry, Danny, Neil, Howard?

MR. BROWN: Still going to have homeowners' association?

MR. WINGLOVITZ: Yes, the roads will all be privately

owned and maintained by the homeowners' association.

MR. ARGENIO: It's my understanding Howard and Mark correct me if I'm wrong everything is the same, the lot line--

MR. SCHEIBLE: We're just looking at an identical plan here?

MR. ARGENIO: It's the way it's structured, correct, the lot line tax benefit for the I think I spoke of this at the last meeting, it's my understanding there's a tax benefit for the town and the banks look a little more favorably on the potential purchasers from a financing perspective if it's set up in this fashion. Is that right?

MR. WINGLOVITZ: That's correct.

MR. ARGENIO: That's my understanding. So if anybody has questions, please jump in. I'm going to start with some procedural things that are necessary but if something comes to mind, just interrupt me. If anybody sees fit, I'll accept a motion we circulate for lead agency.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made by Danny and seconded by Howard. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I think we can make the referral to county, Nicole, please would you see to that?

MS. JULIAN: Yes.

MR. ARGENIO: Dominic or Mark, what else do we need to do officially with this? Do we need to vote?

MR. EDSALL: I'll defer to counsel.

MR. CORDISCO: Good, well, that's a first, we should mark this on the calendar, thank you. It needs to be referred to the Town Board for consideration of designation as a Planned Unit Development similar actually identical to what we have done for The Grove and when the Town Board indicates its willingness to designate this as a Planned Unit Development then the board will be in a position to process the subdivision application.

MR. ARGENIO: I'll accept a motion that we authorize Nicole to make said referral.

MR. BROWN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we make this referral, Dominic and Nicole will make the referral. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. CORDISCO: Just looking ahead since there are no changes to the plan, there's really very little technical to review here but we'll likely at least it will be my recommendation to the board to require a declaration of restrictions be filed on the property so when the lots are created we can indicate that the lots are not occupied until they're part of the homeowners' association.

MR. ARGENIO: What are you worried about, somebody squatting or setting up a teepee?

MR. CORDISCO: I'm concerned about the lots being sold without the homeowners' association in place.

MR. ARGENI: How do we handle that?

MR. CORDISCO: We have drafted a declaration for The Grove, it can be modified, you'll see other town boards actually want to review and approve your homeowners' association documents, that's really not the intent here, it's just to make sure that whatever homeowners' association that you're forming which is going to be responsible for all the common areas includes all the lots.

MR. ARGENIO: Okay, thank you.

MR. EDSALL: Mr. Chairman, with your permission and counsel's permission, I just want to add one thing. The Grove ran into one snafu in their application in that they had not refined their architectural drawings to the point that the lines with the walls between the units and the lot lines were nailed down and they had to come back, so just be forewarned that we do want them to match. When they don't match, it's a problem for you and for us so just make sure that you as part of your--

MR. WINGLOVITZ: These have been refined based on the

latest architecturalals.

MR. EDSALL: So you know you're aware of that but just to the applicant's benefit save yourself a lot of headache, make sure you're happy with the architecturalals so you don't have to come back and change them.

MR. WINGLOVITZ: Thank you very much for your time.

SINGH_SITE_PLAN_(08-18)

MR. ARGENIO: Dr. Singh is next.

Mr. Charles Brown appeared before the board for this proposal.

MR. ARGENIO: Application proposes the construction of a two story 16,000 square foot medical office building on the 10 acre site. The plan was previously reviewed at the 12 November, 2009 and the 26 May, 2010 planning board meetings. It certainly seems to me that we've seen it more than that. Mark, are you sure that's correct?

MR. C. BROWN: That's correct, twice.

MR. ARGENIO: Would you, okay, Mr. Brown, tell us where you've been and what you've done here?

MR. C. BROWN: Based upon our last meeting with the planning board, we have added some additional landscaping showing the proposed flag pole location, it was referred to the county, provided to the County Planning Department for review and we sent it to the town infrastructure committee.

MR. ARGENIO: Need a lot of dirt here.

MR. C. BROWN: About 30,000 yards, we elevated the building.

MR. ARGENIO: Are you aware--

MR. SCHEIBLE: Was it the last time you were in here or something that was in November you just said it was November, I can't remember the dates.

MR. ARGENIO: It was a while back.

MR. SCHEIBLE: At that time, you had said something about supply and--

MR. ARGENIO: That was specific, I will tell you what that is because of the business I'm in, this is going back probably 18 months, two years and they wanted to go in there and fill the site and they were digging the giant hole for the county building down on Grand Street near the city code compliance place and the issue was that we required a permit, filling grade permit for that. And the reason we do that is because this is a giant structural fill that needs to be done in a structural fashion and unless my memory fails me, Mr. Brown, it was determined that you couldn't get through that process and the dirt was exhausted.

MR. C. BROWN: Right.

MR. ARGENIO: More or less.

MR. C. BROWN: It was a misunderstanding, didn't have a grading permit so we had to go through the site plan approval process and show interim grading plan. By the time we got to that point together with obviously all the SWPPP calculations and the SWPPP report, by the time we got done with that, we were so close to showing a whole site plan my client decided might as well go for a whole site plan approval.

MR. ARGENIO: This is a structural fill, the building is going, you can't dump it in 10 foot, you have to pack it and to do that, to be able to certify the building is appropriate, Jennifer is going to need some certification from Mark's office that says it's installed properly and blah, blah, blah, it's ancient history. Let's look--

MR. C. BROWN: We were referred per the last planning board meeting which was two months ago we were referred to the infrastructure committee, they did come back

with some concerns about the existing structure down there on that side street that comes off Silver Stream Road, I believe it's, that's the road that's blocked off but we did provide them with a letter stating we're not increasing the flow and the majority of the flow is coming through our property comes underneath Route 9W, this is the structure, the one that's caved in, this is--

MR. ARGENIO: What about DOT?

MR. C. BROWN: DOT they're signed off on the entrance, they're ready to issue the permit.

MR. ARGENIO: What did they tell you?

MR. C. BROWN: They all want us to open up the island here and you turn around here and turn around here, this is Union and this is Silver Stream entrance this way and right.

MR. ARGENIO: So it's right in, right out?

MR. C. BROWN: Correct, the fire department did reviews.

MR. ARGENIO: Why would you be opening up the island?

MR. C. BROWN: We're not.

MR. ARGENIO: I thought you said--

MR. C. BROWN: We're not, I'm permitted to open up the island, we did widen out the geometry on that and put the island as a rollover just like the one for the ambulance corps on 9W, concrete with rollover curbs so the fire department trucks will have no trouble coming in no matter how big, we did make the lane in the front 30 foot wide to--

MR. ARGENIO: I think we have fire approval, you're okay with fire.

MR. C. BROWN: We had some comments from the water department to change the size of the line and add another hydrant, we made those corrections and we submitted it to them, we haven't heard back.

MR. ARGENIO: I see from the water people, yeah, we're going to need that tied up. We have not assumed position of lead agency as of yet, I assume we sent the letter out.

MR. C. BROWN: I think a letter went out last meeting roughly two months ago.

MR. ARGENIO: If anybody sees fit, I'll accept a motion we declare ourselves lead agency under the SEQRA process.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Mark, to digress we want to make sure we visit SEQRA on Continental Organics, make a note to yourself. Back on point. I want to read this, Mr. Brown, the applicant has depicted a fill re-enforcement system on areas of the site development, the following

protective measures are required as part of the site plan approval and specific to the retaining system to be utilized and shall consider all appropriate and necessary possible loads and conditions related to this project. During the construction, the work must be inspected by a licensed professional engineer who shall provide written verification to the town building inspector prior to the request of Certificate of Occupancy. I will summarize this. The slope is steep, if I misspeak, correct me, the slope is steep and he's proposing the use of some type of geogrid material in layers as he brings that slope up, Henry, which allows him to make a steeper slope. But what Mark is saying is that the licensed P.E. has got to certify that A, it's going to work and B, the same as we do with the walls, a licensed P.E. has got to inspect the construction of it to certify to Jennifer that it's not going to fall down similar to the slopes on the exit from the airport, if you leave from the airport and go back to Drury Lane, if you look to your left and you're right you'll ritual see the slopes have slid, that's what Mr. Edsall's trying to avoid, especially in this instance where we're supporting a building. So I'm going, I'm in agreement with that, I hope you guys are. Henry?

MR. SCHEIBLE: Yeah.

MR. C. BROWN: I have no problem with that.

MR. ARGENIO: It's, Charles, I'm not questioning the system, it's got to be done right. Henry?

MR. SCHEIBLE: I have no problem as long as it's looked after and done correctly.

MR. GALLAGHER: Absolutely.

MR. ARGENIO: I don't want to get hung up on that. I suggest the engineer consider moving the do not enter

sign to the south side access, blah blah blah.

MR. EDSALL: Minor.

MR. ARGENIO: Mark, that's yours.

MR. EDSALL: I don't know why you read it.

MR. ARGENIO: I want to talk about something here, what does this say, is there anything here?

MS. JULIAN: No.

MR. ARGENIO: No problem, that's enough. This business there's a drainage problem here, Silver Stream below this project is closed because it washed out tells me there's a drainage issue, certainly Mr. Brown has done his best to engineer this so he will remedy that.

MR. C. BROWN: We're not going to remedy it but we're reducing the flows to it.

MR. ARGENIO: You're not going to contribute or make it any worse, is that a more fair statement?

MR. C. BROWN: Correct.

MR. ARGENIO: You're right, I shouldn't say you remedied it. We have to vote on the public hearing and this is my opinion is that considering this drainage thing I think we should consider it because it appears to me that the contours that he has on the plan with the swale and such, I mean, it appears fairly well thought out but directly below the site and below the pond you got it, Danny, you're circling it, is a dwelling, a dwelling, a dwelling, a shed and a garage. And if I lived there and somebody was building something upstream of me next to my road that I used to live on that washed out and I didn't get the chance to comment, I would be a little angry. So but it's up to

you guys, we should talk about it and decide what we want to do with it, number one, I gotta tell you I think that because of the or let me not digress too much. Neil and Howard, what are your guys' thoughts?

MR. SCHLESINGER: I think he needs to have a public hearing.

MR. C. BROWN: I agree with you in this case to have a public hearing because we do have some encroachment on there. We're offering up an easement, there's a driveway on my client's property that's being used by three of the residents that you were talking about, so I would agree to have a public hearing on this application so that we don't have any problems.

MR. ARGENIO: You guys don't have any issue?

MR. SCHEIBLE: The storm water and infiltrator systems, now are they just catch basins?

MR. C. BROWN: The infiltration system is the infiltrators, the U-shaped thing that's on a bed of gravel, we did do soil testing and got acceptable percs, that's to take care of the water quality. In addition to that, actually that's designed to take care of water quality fully but we did put in a water quality swale for DEC so we did go above and beyond for water quality. The biggest concern here is the quantity because again, there's problem with Silver Stream and we did reduce those across the board on every design, it's my understanding the SWPP has been signed off by Mark's office, right?

MR. EDSALL: Yes.

MR. ARGENIO: Mark and Charlie, I want to read this, the plan is premised on the extension of the water main along Route 9W to the site, it must be determined if OCDOH approval is required. Even if not required, the

extension should be performed in conformance with town standards and should be dedicated to the town if so requested. Mark, what's the genesis of that?

MR. EDSALL: Well, if it's only intended to serve this site and I believe that's the case, it could be considered a not a water main extension but a service line. But normally what the town wants to have is the right to take the portion that's within a public road so that if the town wants to extend it, it can be used at that point as a public main.

MR. ARGENIO: Don't we have a legal issue? He's not allowed to extend the water main, is he per the letter of the law, he can't extend the water main?

MR. EDSALL: You can as a service, we had the same--

MR. ARGENIO: As a service, yes, as a service, yes.

MR. EDSALL: We had the same situation on a couple other applications where we wanted to reserve the right at some time in the future if the town wanted to extend it even further to take over the portion that's within the public--

MR. ARGENIO: So you want to call it a service but make a portion of it six inch ductile or 12 inch ductile, is that what I'm hearing?

MR. EDSALL: Well, we don't want to run it as less than an eighth if it's going to have fire hydrants off it so there's adequate fire flow God forbid you need it, we want it to run as an eighth in case there's a reason to extend.

MR. ARGENIO: Are you okay?

MR. C. BROWN: Yeah, the plan shows it as an eighth to the point of the T where we provide service to the

building, I'm showing it all the through the hydrant which is at the entrance to the property.

MR. ARGENIO: Exactly where that ductile iron ends, work that out with Mark.

MR. C. BROWN: It extends all the way to the last hydrant, it's only another 50 feet so--

MR. ARGENIO: Seems as though the plan is at a level of fitness where we can schedule a public hearing. We've heard from the state, fire is okay, he seems to have the slopes buttoned up. Anybody sees fit, I will accept a motion that we schedule that for a public hearing.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Get with Nicole and see if you can get that taken care of, Charlie, I would get the other things buttoned up. Neil, did you look at the dumpsters?

MR. SCHLESINGER: Two dumpsters.

MR. C. BROWN: We added landscaping and put that around them.

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MR. ARGENIO: Thank you, Mr. Brown. Charlie, button Mark's comments up, please button his comments up.

MR. C. BROWN: Will do. I will add an appropriate note regarding the fill and certifications. Thank you.

RAY'S_TRANSPORTATION_(10-18)

MR. ARGENIO: Okay, we're at the Z factor and the Z factor is Ray's Transportation. I'm not even going to say anything about this application but what I am going to say is that I have recused myself in the past on this, I'm going to recuse myself tonight. Neil handled it last time but I have asked Danny to handle it tonight because Neil was in Florida a couple times and it did come up as a discussion item and Danny was here and he's 100 percent keyed into it. So that said?

Stewart Rosenwasser, Esq., Raymond Stackhouse and Mr. Chris Viebrock, P.E. from Chazen Engineering appeared before the board for this proposal.

MR. ROSENWASWER: Before you leave, I have one question. Is fish poop a technical engineering term or a planning board term?

MR. ARGENIO: No, it's a term we use in the business, we use it in the business, Your Honor. Thank you.

MR. ROSENWASWER: I've heard it referred to as a lot of things but not fish poop.

MR. ARGENIO: Good luck guys, thanks.

(Whereupon, Mr. Argenio stepped down from the board and Mr. Gallagher took over as chairman for this proposal.)

MR. GALLAGHER: The application proposes an additional use on the approved site plan involving a concrete railroad tie crushing operation with associated improvements. The plan was previously reviewed at the 30 June, 2010 planning board meeting. As discussed at the planning board meeting, application involves expansion of the currently approved storage operation to include crushing operation as well as related

improvements such as truck scales, railroad spur, truck washing, et cetera. Nothing has changed since last time?

MR. ROSENWASSER: Well, I think the main thing that was addressed last time was issues involving potential impacts on traffic. We have received not only your engineer's comments as they relate to that but recommendations from your traffic consultant and I have reviewed them with my client and our engineer and we'll gather that information and make it available.

MR. GALLAGHER: Have you guys, Mark, did they get John Collins?

MR. EDSALL: Yes, I forwarded that onto them so they did have a chance to look at it before tonight's discussion so it could be a little more functional having everybody aware of it. The only other item and if acceptable just throw it out I did speak with them that they have a SWPPP that was submitted and it was in good shape. On the prior application I suggested that they just update it, again, I don't anticipate any significant issues or any problem in just updating it so there's a current SWPPP, it's good for them, it's good for the town. Other than that, I don't know that there's any additional information that we have asked for. They have gotten us some information from CSX that that's ongoing, if you get anything new, just keep passing it on.

MR. GALLAGHER: As far as the railroad spur?

MR. VIEBROCK: Yes, I'm personally working with the CSX and I contact them at least once a week, actually, the design is as it's shown now is what the design is going to be. The last comment he really had we're showing 12 foot between the tracks, he wants 14 as per CSX so that was the last comment.

MR. ROSENWASSER: I think there were some other technical things in Mark's comments that have already been incorporated.

MR. VIEBROCK: There was some old comment about an oil water separator, we have added that to the plans, there's some other clean-up items we needed to do but everything is fairly minor comments. Mark will agree that mostly clean-up, I think the traffic is the biggest.

MR. EDSALL: Yeah, I mean, looking at my comments, I only see one other minor correction just for the denotation of the area for outdoor storage being nailed down.

MR. ROSENWASSER: For the metal?

MR. EDSALL: Yeah, and that's not a big issue, just a matter of making it clear on the plan. I will lateral the open SEQRA issue to counsel as to whether or not we need to do anything more on that.

MR. CORDISCO: Primarily traffic and I have, I believe they have indicated they're undertaking the traffic study and the board will review it along with the board's consultants when they submit.

MR. ROSENWASSER: Yeah, I think a lot of the information you might indicate has already been collected, was an ongoing process of collecting but now that you have specified, more particularly listed the intersections and what the counts that you want we'll be able to finish that.

MR. GALLAGHER: Still waiting Orange County and City of Newburgh.

MR. EDSALL: Yes, we did the referral to the County Planning and the 239 N and 239 NN because it's within

500 foot of the municipal boundary.

MR. GALLAGHER: Can't really do much.

MR. ROSENWASSER: I assume it's your intention to wait for the study before we even consider anything regarding public hearing? We really anticipate, I don't know how fast town's consultant can turn it around, we spoke and--

MR. VIEBROCK: This is a couple weeks, I'm going to mobilize the guys and take the counts, maybe I might be able to get it by the end of this week, early next week, I can turn this around pretty quickly.

MR. EDSALL: If you have the ability to submit it both hard copy and electronically that will expedite a review because for submittals I would say three hard copies to Nicole but if you can send it electronically that makes it a little easier for me as well to forward it on to John Collins to expedite review.

VIEBROCK: Absolutely.

MR. GALLAGHER: Do we hold off on public hearing then?

MR. CORDISCO: I think it would be prudent to see the traffic report before you because traffic has--

MR. GALLAGHER: That question will come up.

MR. CORDISCO: That's been a cause of public concern in connection with the traffic, not that that's the tail that wags that dog, it's just that it would be prudent to see the report before you decide on the public hearing.

MR. SCHLESINGER: Just as a preliminary issue, wasn't one of the issues that you were maybe a higher degree of traffic because you were moving from one location to

the other?

MR. ROSENWASSER: That was an unintended consequence, I think, and it addresses this segmentation issue that was raised in the comments that was not anticipated that Ray would even want to conduct a crushing operation here then there was a change in his business in the industry and then he decided to move it after he got the approval that he would continue it and move it from its current site. And so that addresses that issue and he was moving other material to really move his operation to here and I think he took that McArthur Avenue and there was, there may have been an unusually high artificial volume that triggered some complaints that got us here. It's not, he's indicated he has no intention of using that as a normal traffic route for his business and he doesn't--

MR. SCHLESINGER: You also said that had you known or if anybody said anything you would have routed the trucks in another direction.

MR. STACKHOUSE: I want the board to know as of that meeting June 30 we haven't used the road since so we're going around.

MR. SCHLESINGER: You made changes.

MR. ROSENWASSER: Yes, had he known before that it was so ongoing--

MR. CORDISCO: On the public hearing issue I think one thing we can do in the interim is check back to see quite frankly I don't recall as to whether or not the board waived public hearing last time.

MR. ROSENWASSER: They did.

MR. CORDISCO: If you waived it last time there might be justification to do so on this one.

MR. GALLAGHER: Still better off waiting for the traffic study.

MR. CORDISCO: Yes, but I think the fact that you waived it should weigh heavily in waiving public hearing when you get the report.

MR. SCHEIBLE: You've got it pretty well under control, the traffic study report comes back to a positive side we can continue on from there.

MR. ROSENWASSER: Thank you very much.

MR. GALLAGHER: Motion to adjourn?

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

